THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.25301 of 2007

Dated: 27.12.2007

Between:

Khaja Qutubuddin Afzal. .. Petitioner.

And

Deputy Director,
Enforcement Directorate
Government of India
and another. .. Respondents.

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.25301 of 2007

ORDER:

Heard Sri M.A.Saleem, learned counsel representing the writ petitioner, and Sri Surya Karan Reddy, learned counsel representing the respondents.

2. This Court ordered Notice Before Admission on 29.12.2007 and granted interim stay for a period of four weeks.

3. The order dated 05.12.2007 made by the Appellate Tribunal for Foreign Exchange, Janpath Bhavan, 4th floor, 'B' Wing, Janpath, New Delhi had been placed before this Court and the same reads as hereunder:-

> "Appellant is neither present nor represented. However, Shri A.C.Singh, DLA appearing for the respondent seeks time to confirm the position of the appeal filed by the appellant in the Hon'ble High Court of Andhra Pradesh. Hearing of this matter is adjourned till 14th February, 2008."

4. The writ petition is filed for a Writ of Mandamus declaring the order dated 03.09.2007 made in Appeal No.484 of 2001 on the file of the 2nd respondent in so far as directing the petitioner to deposit 60% of the penalty amount as a condition precedent for granting stay pending Appeal No.484 of 2001 as being arbitrary and set aside the

same in so far as directing the petitioner to deposit 60% of the penalty amount as a condition precedent for granting stay pending Appeal No.484 of 2001 and consequently direct the 2nd respondent to stay all further proceedings pursuant to the order dated 03.09.2007 made in Appeal No.484 of 2001 on the file of the 2nd respondent including hearing of the appeal No.484 of 2001 and pass such suitable orders.

5. It is stated that deposit of 60% of the penalty amount is made a condition precedent for granting stay pending Appeal No.484 of 2001. It is brought to the notice of the Court that in fact it is a condition precedent for entertaining the very appeal itself.

6. In view of the facts and circumstances, the direction to the petitioner to deposit 60% of the penalty amount as a condition precedent is hereby modified to that of deposit of 40% of the penalty amount as a condition precedent. It is stated that some amount had already been deposited and the same can be given due credit in computing and calculating 40% of the amount, which is being directed to be paid by this Court. It is need less to say that on such deposit, being paid by the petitioner, let the appeal be disposed of in accordance with law. Let the rest of the amount be paid on or before 14.02.2008.

7. The writ petition is, accordingly, disposed of. No order as to costs.

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(P.S.NARAYANA,J)

Dt.27.12.2007

Note: Operative portion by wire at partys' costs.

B/o
v v